

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|----------------------------------|---|----------------------------------|
| DANA R. ENCAPERA, |) | |
| Plaintiff, |) | Civil Action No. 18-387 |
| |) | |
| v. |) | |
| |) | |
| RICHARD ENCAPERA, et al., |) | Magistrate Judge Lanzillo |
| Defendants. |) | |

O R D E R

Plaintiff has filed a motion seeking leave to proceed *in forma pauperis*, along with a proposed complaint. Although Plaintiff’s complaint identifies several defendants, she fails to set forth any factual averments of any sort. See ECF No. 1. Rather, she simply alleges that a host of defendants violated “all 29 civil rights” and avers that documentation is available “upon request.” Id. This type of pleading fails to satisfy Rule 8 of the Federal Rules of Civil Procedure which provides, *inter alia*, that “[a] pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Moreover, in the absence of any factual allegations, the Court is unable to evaluate Plaintiff’s Complaint pursuant to 28 U.S.C. § 1915(e) to determine whether this action is “frivolous or malicious,” “fails to state a claim on which relief may be granted,” or “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2). If Plaintiff wishes to proceed with this action, she must file an Amended Complaint that complies with the Federal Rules of Civil Procedure and the following instructions:

Instructions for Filing an Amended Complaint

A. Caption and Heading

Plaintiff must place her full name at the top of the amended complaint. Plaintiff must also add the names of **each** defendant. Plaintiff must name as defendants **only** those persons who are responsible for the alleged constitutional violation(s).

B. Jurisdiction

Plaintiff must inform the Court why the case should be heard in federal court rather than state court or some other forum. If Plaintiff's action is generally one for a violation of civil rights, 42 U.S.C. § 1983 will normally be the basis for the claim. In order for Plaintiff's action to be heard in federal court under Section 1983, she must be able to show that the defendant(s), at the time of the claims alleged in the amended complaint, were acting under the authority or color of state law.

C. Parties

As the person initiating the lawsuit, Plaintiff must identify herself as such. Also, for **each** defendant named in the amended complaint, Plaintiff should list their current address and description of their employment.

D. Statement of Claim

Plaintiff must state what rights under the Constitution, laws, or treaties of the United States have been violated.

E. Statement of Facts

Plaintiff must provide specific details of precisely how her civil rights were allegedly violated. Plaintiff should note that, in civil rights cases, more than conclusory and vague allegations are required to state a cause of action under 42 U.S.C. § 1983. Plaintiff should clearly describe how **each named defendant** is involved in the alleged constitution violation(s).

This description should include references to relevant **dates, times, and locations**. It should explain to the Court what happened by specifically describing **each** defendant's behavior or action and how that behavior or action – or lack of action – resulted in the alleged violations. Plaintiff should be specific about the particulars of the event, **each** defendant's misconduct, and how such misconduct resulted in a violation or denial of the civil right at issue.

Where the amended complaint includes more than one incident, Plaintiff should clearly distinguish between them by preparing a separate description – usually a paragraph – for each incident. Each incident should be identified as a separate count, and each count must include appropriate facts and evidence in support of the claims made in the count. Each incident must be clearly and specifically described; it should include the relevant time, date, and location. Each incident description also should clearly identify the relevant defendant and what that defendant's role was in the incident.

F. Injury

Plaintiff must state as specifically as possible the actual injury suffered from the

action of the defendants that resulted in the alleged civil rights violation. Simply stating that her civil rights have been violated is insufficient.

G. Previous Lawsuits

Plaintiff must alert the Court to any other case in which she was a party that may be connected with the case she is now filing. Plaintiff should inform the Court of any and all previously filed cases that include some of the same facts and events she relies on for this case.

H. Exhaustion of Administrative Remedies

Plaintiff should be aware that under 42 U.S.C. § 1997e(a), she must fully exhaust all available administrative remedies before pursuing a civil rights complaint concerning prison conditions.

I. Request for Relief

Plaintiff must describe for the Court the relief she is seeking as a result of this lawsuit. The relief requested must be related specifically to the injury suffered.

J. Declaration Under Penalty of Perjury

Plaintiff must sign her amended complaint and file it with the Clerk of the Court. When doing so, Plaintiff is making a declaration under law to the Court that everything in the amended complaint is true. Plaintiff should realize that the Court can order sanctions or penalties for the filing of complaints and pleadings that are frivolous, without merit, based on false or misleading information, etc.

AND NOW, this 16th day of January, 2019;

IT IS HEREBY ORDERED that Plaintiff file an amended complaint that complies with the foregoing instructions on or before January 30, 2019. If Plaintiff fails, within the applicable time period, to file an amended complaint adhering to the standards set forth above, it will be recommended that this action be dismissed.

/s/ Richard A. Lanzillo
RICHARD A. LANZILLO
United States Magistrate Judge